

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~County~~
~~City~~ of Moriah
~~Town~~
~~Village~~

Local Law No. 3 of the year 19 90

A local law Historic Preservation
(Insert title)

Be It enacted by the Town Board of the
(Name of Legislative Body)

~~County~~
~~City~~ of Moriah as follows:
~~Town~~
~~Village~~

AN ORDINANCE relating to the establishment of landmarks or historic districts in the Town of Moriah.

SECTION 1. PURPOSE

It is hereby declared as a matter of public policy that the protection, enhancement and perpetuation of landmarks and historic districts is necessary to promote the economic, cultural, educational and general welfare of the public. Inasmuch as the identity of a people is founded on its past, and inasmuch as Moriah has many significant historic, architectural and cultural resources which constitute its heritage, this act is intended to:

- (a) protect and enhance the landmarks and historic districts which represent distinctive elements of Moriah's historic, architectural and cultural heritage;
- (b) foster civic pride in the accomplishments of the past;
- (c) protect and enhance Moriah's attractiveness to visitors and the support and stimulus to the economy thereby provided, and
- (d) insure the harmonious, orderly and efficient growth and development of the Town.

SECTION 2. HISTORIC PRESERVATION COMMISSION

There is hereby created a commission to be known as the Town of Moriah Historic Preservation Commission, which shall consist of the Town of Moriah Town Board.

- (a) The powers of the commission shall include:
 - (i) Employment of staff and professional consultants as necessary to carry out the duties of the Commission.
 - (ii) Promulgation of rules and regulations as necessary for the conduct of its business.
 - (iii) Adoption of criteria for the identification of significant historic, architectural, and cultural parks and for the delineation of historic districts.
 - (iv) Conduct of surveys of significant historic, architectural and cultural landmarks and historic districts within the Town.

(If additional space is needed, please attach sheets of the same size as this and number each)

- (v) Designation of identified structures or resources as landmarks and historic districts.
- (vi) Acceptance on behalf of the town government of the donation of facade easements and development rights; the making of recommendations to the Town government concerning the acquisition of facade easements or other interests in real property as necessary to carry out the purposes of this act.
- (vii) Increasing public awareness of the value of historic, cultural and architectural preservation by developing and participating in public education programs.
- (viii) Making recommendations to Town government concerning the utilization of state, federal or private funds to promote the preservation of landmarks and historic districts within the Town.
- (ix) Recommending acquisition of a landmark structure by the Town government where its preservation is essential to the purposes of this act and where private preservation is not feasible.
- (x) Approval or disapproval of applications for certificates of appropriateness pursuant to this act.
- (b) The Commission shall meet at least quarterly, but monthly if the number of applications to the Commission warrants more frequent meetings; meetings may be held at any time on the written request of any two of the Commission members or on the call of the Chairman or the supervisor.
- (c) A quorum for the transaction of business shall consist of three of the Commission members, but not less than a majority of the full authorized membership may grant or deny a Certificate of Appropriateness.

SECTION 3. DESIGNATION OF LANDMARKS OR HISTORIC DISTRICTS

- (a) The Commission may recommend to the Town Board designation of an individual property as a landmark if it:
 - (i) Possesses special character or historic or aesthetic interest or value as part of the cultural, political, economic or social history of the locality region, state or nation; or
 - (ii) Is identified with historic personages; or
 - (iii) Embodies the distinguishing characteristics of an architectural style or
 - (iv) Is the work of a designer whose work has significantly influences an age; or
 - (v) Because of a unique location or singular physical characteristic, represent an established and familiar visual feature of the neighborhood.
- (b) The Commission may recommend to the Town Board designation of a group of properties as an historic district if it:
 - (i) contains properties which meet one or more of the criteria for designation of a landmark; and
 - (ii) by reason of possessing such qualities, it constitutes a distinct section of the Town.

The boundaries of each historic district designated henceforth shall be specified in detail and shall be filed, in writing, in the Town Clerk's Office for public inspection.

- (c) Notice of a proposed designation shall be sent by registered mail to the owner of the property proposed for designation, describing the property proposed and announcing a joint public hearing by the Commission and the Town Board to consider the designation. Where the proposed designation involves so many owners that individual notice is infeasible, notice may instead be published at least once in a newspaper of general circulation at least ten (10) days prior to the date of the public hearing. Once the Commission has issued notice of a proposed designation, no building permits shall be issued by the building inspector until the Commission has made its decision.

- (d) The Commission and the Town Board shall hold a joint public hearing prior to Town Board designation of any landmark or historic district. The Commission, owners and any interested parties may present testimony or documentary evidence at the hearing which will become part of a record regarding the historic, architectural or cultural importance of the proposed landmark or historic district. The record may also contain staff reports, public comments or other evidence offered outside of the hearing.
- (e) The Commission shall forward notice of each property designated as a landmark and of the boundaries of each designated historic district to the office of the Essex County Clerk for recordation.

SECTION 4. CERTIFICATE OF APPROPRIATENESS FOR ALTERATION, DEMOLITION OR NEW CONSTRUCTION AFFECTING LANDMARKS OR HISTORIC DISTRICTS

No person shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction or moving of a landmark or property within an historic district, nor shall any person make any material change in the appearance of such a property, its light fixtures, signs, sidewalks, fences, steps, paving or other exterior elements visible from a public street or alley which affect the appearance and cohesiveness of the historic district without first obtaining a certificate of appropriateness from the Historic Preservation Commission.

SECTION 5. CRITERIA FOR APPROVAL OF A CERTIFICATE OF APPROPRIATENESS

- (a) In passing upon an application for a certificate of appropriateness, the Historic Preservation Commission shall not consider changes to interior spaces, unless the are open to the public, or to architectural features that are not visible from a public street or alley.

The Commission's decision shall be based upon the following principles:

- (i) properties which contribute to the character of the historic district shall be retained, with their historic features altered as little as possible;
 - (ii) any alteration of existing properties shall be compatible with its historic character, as well as with the surrounding district; and
 - (iii) new construction shall be compatible with the district in which it is located.
- (b) In applying the principle of compatibility, the Commission shall consider the following factors:
 - (i) the general design, character and appropriateness to the property of the proposed alteration or new construction.
 - (ii) the scale of proposed alteration or new construction in relation to the property itself, surrounding properties and the neighborhood.
 - (iii) texture, materials and color and their relation to similar features of other properties in the neighborhood.
 - (iv) visual compatibility with surrounding properties, including proportion of the property's front facade, proportion and arrangement of windows and other openings within the facade, roof shape and the rhythm of spacing of properties on streets, including setback.
 - (v) the importance of historic, architectural or other features to the significance of the property.

SECTION 6. CERTIFICATE OF APPROPRIATENESS APPLICATION PROCEDURE

- (a) Prior to the commencement of any work requiring a certificate of appropriateness the owner shall file an application for such a certificate with the Historic Preservation Commission. The application shall contain:

- (i) name, address and telephone number of applicant
 - (ii) location and photographs of property
 - (iii) elevation drawings of proposed changes, if available
 - (iv) perspective drawings, including relationship to adjacent properties, if available
 - (v) samples of color or materials to be used
 - (vi) where the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination and a plan showing the sign's location on the property (vii) any other information which the Commission may deem necessary in order to visualize the proposed work
- (b) No building permit shall be issued for such proposed work until a certificate of appropriateness has first been issued by the Historic Preservation Commission. The Certificate of appropriateness required by this act shall be in addition to and not in lieu of any building permit that may be required by any other ordinance of the Town of Moriah.
 - (c) The Commission shall approve, deny or approve the permit with modifications within sixty (60) days from receipt of the completed application or, if a public hearing is held on the application within sixty (60) days of the date on which the public hearing record is closed. The Commission may hold a public hearing on the application at which an opportunity will be provided for proponents and opponents of the application to present their views.
 - (d) All decisions of the Commission shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the Town Clerk's Office for public inspection. The Commission's decision shall state the reasons for denying or modifying any application.

SECTION 7. HARDSHIP CRITERIA

- (a) An applicant whose certificate of appropriateness for a proposed demolition has been denied may apply for relief on the ground of hardship. In order to prove the existence of hardship, the applicant shall establish that:
 - (i) the property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible.
 - (ii) the property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and
 - (iii) efforts to find a purchaser interested in acquiring the property and preserve it have failed.
- (b) An applicant whose certificate of appropriateness for a proposed alteration has been denied may apply for relief on the ground of hardship. In order to prove the existence of hardship, the applicant shall establish that:
 - (i) the property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible.

SECTION 8. HARDSHIP APPLICATION PROCEDURE

- (a) After receiving written notification from the Commission of the denial of a certificate of appropriateness, an applicant may commence the hardship process. No building permit or demolition permit shall be issued unless the Commission makes a finding that a hardship exists.
- (b) The Commission may hold a public hearing on the hardship application at which an opportunity will be provided for proponents and opponents of the application to present their views.
- (c) The applicant shall consult in good faith with the Commission, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property.
- (d) All decisions of the Commission shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the Town Clerk's Office for public inspection. The Commission's decision shall state the reasons for granting or denying the hardship application.

SECTION 9. ENFORCEMENT

All work performed pursuant to a Certificate of appropriateness issued under this ordinance shall conform to any requirements included therein. It shall be the duty of the Building Code Enforcement Officer to inspect periodically any such work to assure compliance. In the event work is found that is not being performed in accordance with the certificate of appropriateness, or upon notification of such fact by the Historic Preservation Commission, the Building Code Enforcement Officer shall issue a stop work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect.

SECTION 10. MAINTENANCE AND REPAIR REQUIRED

Nothing in this ordinance shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within an historic district which does not involve a change in design, material, color or outward appearance.

No owner or person with an interest in real property designated as a landmark or included within an historic district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the Historic Preservation Commission, produce a detrimental effect upon the character of the historic district as a whole or the life and character of the property itself. The intent of this requirement is to prevent deterioration of the property through willful neglect, for the purpose of seeking to justify demolition of the property.

Examples of such deterioration include:

- (a) Deterioration of exterior walls or other vertical supports.
- (b) Deterioration of roofs or other horizontal members.
- (c) Deterioration of exterior chimneys.
- (d) Deterioration of crumbling of exterior stucco or mortar.
- (e) Ineffective waterproofing of exterior walls, roofs or foundations, including broken windows or doors.
- (f) Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for the public safety.

SECTION 11. VIOLATIONS

- (a) Failure to comply with any of the provisions of this ordinance shall be deemed a violation and the violator shall be liable to a fine of not more than two hundred fifty dollars (\$250) for each day the violation continues.
- (b) Any person who demolishes, alters, constructs or permits a designated property to fall into a serious state of disrepair in violation of this ordinance shall be required to restore the property and its site to its appearance prior to the violation. Any action to enforce this subsection shall be brought by the Town Attorney. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.

SECTION 12. APPEALS

Any person aggrieved by a decision of the Historic Preservation Commission relating to hardship or a certificate of appropriateness may, within 15 days of the decision, file a written application with the Town Board of the Town of Moriah for review of the decision.

(Complete the certification in the paragraph which applies to the filing of this local law and strike out the matter therein which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No.³... of 19⁹⁰...
~~County~~
~~City~~
of the ~~Town~~ of ~~Moriah~~... was duly passed by the ~~Town Board~~.....
~~Village~~ (Name of Legislative Body)
on December 11, 19⁹⁰ in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval or no disapproval by Elective Chief Executive Officer,* or repassage after disapproval.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
~~County~~
~~City~~
of the ~~Town~~ of was duly passed by the
~~Village~~ (Name of Legislative Body)
on 19 not disapproved
and was approved by the
repassed after disapproval Elective Chief Executive Officer*
and was deemed duly adopted on 19, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
~~County~~
~~City~~
of the ~~Town~~ of was duly passed by the
~~Village~~ (Name of Legislative Body)
on 19 not disapproved
and was approved by the
repassed after disapproval Elective Chief Executive Officer*
on 19 Such local law was submitted to the people by reason of a
mandatory referendum, and received the affirmative vote of a majority of the qualified electors voting
permissive
general
thereon at the special election held on 19, in accordance with the applicable
annual provisions of law.

4. (Subject to permissive referendum, and final adoption because no valid petition filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19.....
~~County~~
~~City~~
of the ~~Town~~ of was duly passed by the
~~Village~~ (Name of Legislative Body)
on 19 not disapproved
and was approved by the
repassed after disapproval Elective Chief Executive Officer*
on 19 Such local law was subject to a permissive referendum and
no valid petition requesting such referendum was filed as of 19
in accordance with the applicable provisions of law.

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village or the supervisor of a town where such officer is vested with power to approve or veto local laws or ordinances.

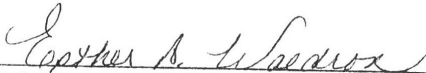
5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19 of the City of having been submitted to referendum pursuant to the provisions of §36 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the ^{special} ~~general~~ election held on 19..... became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19..... of the County of, State of New York, having been submitted to the Electors at the General Election of November, 19....., pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.
(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph above.


Clerk of the County legislative body, City, Town or Village Clerk or
officer designated by local legislative body
ESTHER A. WALDRON, TOWN CLERK
TOWN OF MORIAH

Date: January 18, 1991

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK

COUNTY OF Essex

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

.....
WILLIAM J. POTSKOWSKI, ESQ.
..... Attorney for the Town of Moriah
Title

Date:

XXXXXX
XXXX
Town of Moriah
XXXXXX